IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JAIPUR BENCH, JAIPUR.

O R D E R

S.B. CIVIL WRIT PETITION NO.6646/1999.

Geetanjali Agarwal
Vs.
University of Rajasthan

Date of Order : 16/8/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Rajesh Mootha for the petitioner.
Shri Vishnu Kant Sharma for the respondents

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BY THE COURT:-

Heard learned counsel for the petitioner and the learned counsel for the respondents.

2) This writ petition has been filed with the prayer that letter dated 30/8/1999 issued by the University be quashed and respondent-University be directed to grant average marks in two papers: (i) Audio & Visual Communication & (ii) Current Affairs and Language in which petitioner sought revaluation.

3) According to the petitioner, she appeared in all seven papers of degree course of Bachelor of Journalism & Mass Communication in the year

1995 as an ex-student. While in Ist of the above papers, she secured 40% marks and in the second paper, 50% marks. She applied for revaluation but was informed vide letter dated 30/8/1999 that revaluation was not possible because the answer-sheets have been misplaced and therefore she could apply for reappearing in those papers as per the provisions of Ordinance 169-G(3) of the University Ordinance.

4) Learned counsel for the petitioner argued that the aforesaid provision has wrongly been applied in the case of the petitioner as Ordinance 169-G(1) categorically provides that in a contingency arising from the loss or misplacement of the answer-books before their evaluation beyond reasonable hope of retrieval, the Vice Chancellor may permit to every such candidate either to re-appear in the paper concerned at a special examination to be arranged or to opt for the average of marks of the other theory papers of the same examination.

5) Shri Vishnu Kant Sharma argued that in the facts of the present case Ordinance 169-G(1) cannot be applied to the case of the petitioner because that provision is meant to be pressed into service only in such cases, where the answer-sheets are lost or misplaced even before revaluation. However, in case, where revaluation had already been taken place and revaluation is asked for, the only provision that can be applied is Ordinance 169-G(3) according to which, a candidate can be permitted to re-appear in the examination.

6) In order to appreciate the contention of the parties, it would be apposite to reproduce Ordinance 169-G(1) and 169-G(3) of the University Ordinance as under:-

> “O.169-G.(1) In a contingency arising from the loss or misplacement of one or more written answer-books before their evaluation beyond reasonable hope of retrieval, or from damage, destruction or mutilation of one or more answer-books making evaluation or checking thereof in whole or in part impossible, the Vice-Chancellor may permit every candidate either to re-appear in the paper concerned at a special examination to be arranged or to opt for the average of

> marks of the other theory papers of the same examination to be taken into account in the paper concerned."
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> "(3) Where scrutiny of marks and/or re-valuation of answer books is not possible due to loss, misplacement, damage or mutilation or answer-book(s), the candidate shall be permitted, if he so desires, to re-appear in the paper concerned as soon as possible (special arrangements shall be made for the purpose, if necessary) and in that case the marks obtained by the candidate in the aforesaid examination shall be taken as the marks obtained by him as a result of scrutiny/re-valuation."

7) A perusal of Ordinance 169-G(1) and (3) clearly reveal that in contradictions to the provisions of Ordinance 169-G(3) which stipulate specific provision in relation to the answer-books that are lost even before their evaluation, the provisions of 169-G(3) provides that Where scrutiny of marks and/or re-valuation of answer books is not possible due to loss, misplacement, damage or mutilation or answer-books, the candidate shall be permitted, if he so desires, to re-appear in the paper concerned as soon as possible (special arrangements shall be made for

the purpose, if necessary). I find substance in the contention raised by the respondents that Ordinance 169-G(1) cannot be applied to the case where answer-books are lost after their evaluation, whose revaluation is asked for. In the instant case, only provision that can be applied is 169G-(3) in which concerned candidate can be provided with the opportunity to re-appear in the paper concerned.

8) In the facts of the case, it is directed that the respondents shall permit the petitioner to re-appear in the aforesaid two papers in the ensuing examinations and shall intimate to her the date and time of the examination in advance for the purpose.

In the result, the writ petition is partly allowed with no order as to costs.

(MOHAMMAD RAFIQ), J.

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